

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**PROGRESSIVE PREFERRED INS. CO.,  
RESPONDENT**

**vs.**

**RUSSANNE REECE AND JEFF L. REECE,  
APPELLANTS**

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DOCKET NUMBER WD78915

DATE: JUNE 7, 2016

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Appeal from:

The Circuit Court of Clinton County, Missouri  
The Honorable J. Bartley Spear, Jr., Judge

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Appellate Judges:

Division Two: Victor C. Howard, Presiding Judge, Thomas H. Newton, Judge and Karen King Mitchell, Judge

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Attorneys:

Suzanne R. Bruss, for Respondent

Dale R. Funk, for Appellants

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**PROGRESSIVE PREFERRED INS. CO., RESPONDENT**

**v.**

**RUSSANNE REECE AND JEFF L. REECE, APPELLANTS**

WD78915

Clinton County, Missouri

Before Division Two: Victor C. Howard, Presiding Judge, Thomas H. Newton, Judge and Karen King Mitchell, Judge

Jeff and Russanne Reece appeal the trial court's summary judgment in favor of Progressive Preferred Insurance Company on its petition for declaratory judgment finding no underinsured motorist (UIM) coverage available to the Reeces under a policy issued to Mrs. Reece for injuries Mr. Reece sustained in a collision with another motorist while operating his John Deere Gator. They contend that the trial court erred in ruling that the Gator is a motor vehicle under a UIM coverage exclusion. They also assert that the trial court erred in dismissing their counterclaim for vexatious refusal to pay. The judgment is affirmed.

**AFFIRMED.**

**Division Two holds:**

1. Where the Gator is self-propelled by a motor and a carrier of goods or passengers and an ordinary person of average understanding purchasing insurance would believe that it is a motor vehicle, the trial court did not err in ruling that the Gator was a motor vehicle under the UIM coverage exclusion and that UIM coverage is barred for the Reeces' claim.
2. Where progressive had no duty to pay UIM benefits for the Reeces' claim, the trial court did not err in granting summary judgment in favor of Progressive on their counterclaim for vexatious refusal to pay and dismissing the counterclaim with prejudice.

**Opinion by: Victor C. Howard, Judge**

Date: June 7, 2016

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